FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.
CRIMINAL REVISION APPLICATION NO. 327 of 2003.

Apple Industries Ltd. & anr. ..Applicants.
vs.
Punjab National Bank Ltd. & ors. ..Respondents.

Office Notes,Office Memoranda of Coram, appearnaces,Courts's orders or directions and Registrar's orders.	:	Court's or Judge's orders

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Shri I.A. Bagaria for the applicant.
Shri Vishal Maheshwari i/b M/s Negandhi Shah & Himayatullah for respondent No.1.
Shri Ganesh Gole for respondent No.2.
Shri A.S. Shitole, A.P.P. for the State.

CORAM: V.M.KANADE,J.
DATED: 15-2-2005.

P.C.:

1. This criminal revision application is directed against the judgment and order passed by the Additional Sessions Judge, Greater Bombay, in Criminal Revision Application No. 644 of 2002. By the said judgment and order, the Additional Sessions Judge was pleased to set aside the order of dismissal of the complaint dated 9.7.2002. The applicant takes exception to this order.

2. Brief facts of the case are that respondent No.1- Punjab National Bank which is a Body Corporate incorporated under Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 filed

a complaint before the Metropolitan Magistrate, 8th Court, Esplanade, Mumbai against the applicant in this case and 2 others alleging that they had committed offences punishable under section 406, 409, 420 r/w 120-B of the Indian Penal Code. After complaint was filed, the learned Magistrate was pleased to pass an order directing the police to make enquiry in the matter and submit report under section 202 of the Criminal Procedure Code. Accordingly, enquiry was made by Cuffe Parade Police Station and report was submitted stating that the said no case is made out against the accused . On the basis of the said report the Metropolitan Magistrate dismissed the complaint by order dated 9.7.2002. In the meantime, respondent No.1 had approached the Debt Recovery Tribunal, Mumbai, by fling Original Application No.958 of 2001. In the said original application, consent terms were filed by the parties and decree was passed in terms of the consent terms.

3. In the meantime, respondent No.1 had preferred revision application before the Additional Sessions Judge, Greater Bombay, challenging the order passed by the Metropolitan Magistrate, who had dismissed

the complaint filed by the complainant. The learned Additional Sessions Judge was pleased to allow the application which was filed and set aside the order of dismissal passed by the learned Magistrate. A direction was given to the Magistrate to decide the case on its own merits. Against the said order present criminal revision application has been filed by the applicant under section 482 read with sections 397 and 201 of the Criminal Procedure Code.

4. During the pendency of the criminal revision application the parties have settled the dispute between them and the original complainant does not wish to prosecute the complaint. The consent terms are taken on record and marked X for identification. All the parties are present in Court and respondent No.1 has stated in the consent terms that he does not wish to prosecute the complaint and in view of the fact that the parties have settled the matter amongst themselves, the order passed by the Additional Sessions Judge will have to be quashed and set aside. Criminal revision application is allowed. Accordingly, the order passed by the Additional Sessions Judge dated

18.2.2003 is quashed and set aside. The order passed by the Metropolitan Magistrate is confirmed in view of the consent terms filed by the parties. Criminal Revision Application is allowed in the above terms.

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